

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 05/05/2025

-----X
CATLIN INSURANCE COMPANY,

Plaintiff,

-v-

CHAMP CONSTRUCTION COMPANY, AMERICAN
EMPIRE INSURANCE COMPANY, MERCHANTS
MUTUAL INSURANCE COMPANY, NAVIGATORS
SPECIALTY INSURANCE, AXIS INSURANCE,
NAVIGATORS INSURANCE COMPANY, GZA
GEOENVIRONMENTAL, INC., also known as
GOLDBERG ZOINO ASSOCIATES OF NEW YORK
P.C., COMMERCE & INDUSTRY INSURANCE, ACE
AMERICAN INSURANCE COMPANY, GILSANZ,
MURRAY, STEFICEK,LLP, CONTINENTAL
CASUALTY COMPANY, JOHN DOES 1-10 (said
persons being unknown and fictitious) and ABC
COMPANIES 1-10 (said entities being unknown and
fictitious),

Defendants.
-----X

24-cv-4499 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

On April 18, 2025, Defendant Navigators Insurance Company, also sued here under the name “Navigators Specialty Insurance” (“Navigators”), moved to dismiss the Amended Complaint of Plaintiff Catlin Insurance Company (“Catlin”) for lack of subject-matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1332(a)(1). Dkt. No. 155. Catlin concedes that there is a lack of diversity jurisdiction between it and Navigators, but it asks that Navigators alone be dismissed from the action, allowing the Court to retain jurisdiction over the remaining parties. Dkt. No. 163. On April 29, 2025, the Court ordered the parties to show cause by May 2, 2025, why the Court should not dismiss

Navigators without prejudice, preserving diversity jurisdiction. Dkt. No. 164. No party has objected to this course of action. The Court will dismiss Navigators without prejudice, retaining jurisdiction over the remaining parties.


This action is premised on diversity jurisdiction pursuant to 28 U.S.C. § 1332. Dkt. No. 23 ¶ 19. Catlin is a Texas corporation with its principal place of business in Connecticut. *Id.* ¶ 6. Navigators has submitted an affidavit and additional documentation showing that its principal place of business is in Hartford, Connecticut. Dkt. Nos. 156, 156-1, 156-2, 156-3. Therefore, the complete diversity necessary to satisfy 28 U.S.C. § 1332 is lacking. *See Hertz Corp. v. Friend*, 559 U.S. 77, 84–94 (2010). However, “Federal Rule of Civil Procedure 21 allows a court to drop a nondiverse party at any time to preserve diversity jurisdiction, provided the nondiverse party is not ‘indispensable’ under Rule 19(b).” *CP Sols. PTE, Ltd. v. Gen. Elec. Co.*, 553 F.3d 156, 159 (2d Cir. 2009) (citing *Newman–Green, Inc. v. Alfonzo–Larrain*, 490 U.S. 826, 832 (1989)). There is no argument Navigators is indispensable under Rule 19. Navigators is a second-layer excess insurer for the insured defendant, which has two primary insurers and a first-layer excess insurer. Dkt. No. 163 at 2–3. Rendering a judgment in Navigators’ absence will not prejudice the remaining defendants, and no defendant has argued it will.

Navigators is DISMISSED from this case without prejudice pursuant to Federal Rule of Civil Procedure 21.

The Clerk of Court is respectfully directed to close Dkt. No. 155.

SO ORDERED.

Dated: May 5, 2025
New York, New York



LEWIS J. LIMAN
United States District Judge